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NATIONAL ENERGY BOARD
REASONS FOR DECISION

In the Matter of an Application

of

REFORD GARDHOUSE AND WALTER SCOTT
on behalf of themselves

and

**THE INTERESTED CITIZENS GROUP
HALTON HILLS CORRIDOR COMMITTEE**

APRIL 1980

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Ce rapport est publié
séparément dans les deux
langues officielles.



THE APPLICATION

On 18 December 1979, an application was filed by Reford Gardhouse and Walter Scott, on behalf of themselves and The Interested Citizens Coalition, Halton Hills Corridor Committee (the "Applicants"), respecting the 500 kV power line being constructed by Ontario Hydro between the Bruce Nuclear Generating Station and the Milton Transformer Station, in the Province of Ontario and Licence No. EL-95, the major licence held by Ontario Hydro. The Applicants requested the Board to issue orders:

1. prohibiting Ontario Hydro from proceeding with construction of the 500 kV power line pending examination of this application;
2. requiring Ontario Hydro to apply for a certificate under section 44 of the National Energy Board Act authorizing construction of the 500 kV power line;
3. directing that a public hearing be held to determine whether the 500 kV power line is required by the present and future public convenience and necessity, and to assess the environmental impact of the power line; and
4. revoking or suspending Licence No. EL-95 issued to Ontario Hydro until the Applicants



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have been afforded an opportunity to be heard.

The Applicants took the position that the 500 kV power line is an "international power line" within the meaning of that term in section 2 of the National Energy Board Act. The Applicants also alleged that Ontario Hydro was violating the terms and conditions of Licence No. EL-95 by charging inadequate prices for exported energy, and by exporting firm power as opposed to interruptible energy as authorized by that licence.

By a letter dated 11 January 1980, the Board advised the Applicants and Ontario Hydro that, before ruling on the application, it wished to obtain written submissions from those parties setting forth a detailed statement of their evidence and argument with respect to the following issues:

1. whether the 500 kV power line is an international power line; and
2. whether there has been a breach of a term or a condition of Licence No. EL-95 by Ontario Hydro.

The Board directed that the Applicants' submission be filed by 22 January 1980, that of Ontario Hydro by 30 January 1980, and the Applicants' reply by 8 February 1980.

The Applicants subsequently requested that the Board extend the filing date for their initial submission to 28 January 1980, which was granted. The dates for filing Ontario Hydro's submission and the Applicants' reply were extended to 7 February 1980 and 15 February 1980, respectively. At the request of Ontario Hydro, the date for filing its submission was extended to 12 February 1980. The Applicants' reply was filed on 18 March 1980.

DECISION

It is the Board's view that the first three orders requested all raise a question as to the jurisdiction of the Board to grant such orders. The question is whether the 500 kV power line from the Bruce generating station to Milton is an "international power line" within the definition of that term as contained in section 2 of the National Energy Board Act.

With respect to the fourth order requested, section 84 of the National Energy Board Act provides that the Board may, with the approval of the Governor in Council, revoke or suspend an export licence if any term or condition thereof has not been complied with or has been violated.

"International power line" is defined to mean "facilities constructed or operated for the purpose of transmitting power from or to a place in Canada to or from a place outside Canada". The Board has given careful consideration to the evidence and argument submitted to it by both the Applicants and by Ontario Hydro and has concluded that the evidence and argument do not show that the Bruce to Milton power line falls within the definition of "international power line" in the National Energy Board Act. In other words, the line is not a facility constructed or operated for the purpose of transmitting power from or to a place in Canada to or from a place outside Canada. It therefore follows that the

National Energy Board does not possess any jurisdiction in respect to this power line.

As to the fourth order requested, namely an order "revoking or suspending Licence No. EL-95 until the applicants have been afforded an opportunity to be heard", such action could only be taken by the Board under section 84 if the Board were to conclude that a term or condition of Licence No. EL-95 had not been complied with, or had been violated by Ontario Hydro.

After careful consideration of the evidence and argument submitted by both the Applicants and by Ontario Hydro, the Board concludes that such evidence and argument does not suggest that any term or condition of Licence No. EL-95 has not been complied with or has been violated.

In these circumstances, therefore, because the Board finds that it has no jurisdiction over the Bruce to Milton line and, secondly, because the Board finds that there has been no noncompliance or violation of any of the terms or conditions of Licence No. EL-95, the application for the four orders sought is dismissed.

The foregoing constitutes the Board's reasons for decision
and the Board's decision, in this matter.

All of which is respectively submitted.

J S Stabback

(J.G. Stabback)

C.G. Edge

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L.M. Thur

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R.F. Brooks

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J.L. Trudel

(J.L. Trudel)

R.B. Horner

(R.B. Horner)

The following conditions are hereby agreed to by the donor

and the library, and the library, in this matter.

All of which is respectfully submitted.



